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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Tatsuo Kaizu

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02/06/2009

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

SHEPARD, JUSTIN E

ART UNIT

PAPER NUMBER

2424

NOTIFICATION DATE

DELIVERY MODE

02/06/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/039,826	Applicant(s) KAIZU ET AL.	
	Examiner Justin E. Shepard	Art Unit 2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/30/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 8 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claim refers to a computer-readable carrier, which is interpreted as a wave by the examiner and therefore does not meet the statutory bar.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levine in view of Ehrhart.

Referring to claim 1, Levine discloses an information processing apparatus (figure 2, part 18) comprising:

control information acquiring means for acquiring from a program information providing apparatus control information for controlling preset recording of a program (figure 2, part 40; column 3, lines 54-66);

identification information acquiring means for acquiring identification information for identifying a recording apparatus by which said program is recorded (column 4, lines 9-14; figure 1, part 46);

code information acquiring means for acquiring (figure 2, part 40; column 4, lines 58-65), on the basis of said identification information acquired by said identification information acquiring means (column 4, lines 65-67; column 5, lines 1-3; figure 5), code information for controlling said recording apparatus (column 5, lines 1-3), said code information being automatically obtained from a server apparatus if unavailable in a local memory, said code information correspondingly employed with said control information acquired by said control information acquiring means (column 4, lines 58-65; Note: as all the codes are received from the remote database, the codes will always need to be obtained from a server as they will never be stored in the local memory); and

transmitting means for transmitting said code information acquired by said code information acquiring means to said recording apparatus (figure 2, parts 18, 26 and 30).

Levine does not disclose an apparatus with said code information acquiring means comprising: determination means for determining whether code information corresponding to said identification information is recorded in a memory of said information processing apparatus; and accession means for accessing, if said

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determination means determines that said code information is not recorded in said memory, a server apparatus to download said code information.

In an analogous art, Ehrhart teaches an apparatus with said code information acquiring means comprising: determination means for determining whether code information corresponding to said identification information is recorded in a memory of said information processing apparatus; and accession means for accessing, if said determination means determines that said code information is not recorded in said memory, a server apparatus to download said code information (column 27, lines 19-27).

At the time of the invention, it would have been obvious for one of ordinary skill in the art to add the unavailable code downloading taught by Ehrhart to the apparatus disclosed by Levine. The motivation would have been to enable codes to be stored for future use so the device would not need to download new codes each time the device was used.

As to claim 2, see rejection of claim 1 and note that Levine also teaches wherein said code information instructs said recording apparatus to execute one of operations for starting and ending a recording session (Column 4, lines 24 – 28). Note that Levine teaches that the computer 18 can use its internal clock instead of the clock of the IR unit (Column 4, 36 – 38), thereby satisfying the transmitting means.

As to claim 3, see rejection of claim 1 and note that Levine also teaches wherein said transmitting means transmits said code information (infrared code that controls the VCR) which instructs said recording apparatus (VCR 14) to execute a preset recording operation (Column 4, lines 36 – 45).

As to claim 4, see rejection of claim 1 and note that Levine also teaches wherein said identification information (VCR make and model) acquiring means acquires a maker name and a model name of said recording apparatus as said identification information (Column 4, lines 63 – 65).

As to claim 5, see rejection of claim 1 and note that Levine also teaches wherein said code information acquiring means acquires said code information (IR codes that controls the VCR) through a network. Levine teaches that information as to the nature of the remote control codes used by the video recorder 14 is provided from the remote database 40 in Figure 2 (Column 4, lines 58 – 65), wherein the personal computer 18 and the remote database 40 communicates through a telephone network with modems.

As to claim 7, see rejection of claim 1 for the corresponding claim limitations and note that Levine discloses the method along with the apparatus of claim 1 (Column 3, line 24).

As to claim 8, see rejection of claim 1 for the corresponding claim limitations and note that Levine teaches a special application program (computer readable program) that is stored in a program storage medium (diskette) implements the claim limitations of claim 1 (Column 3, lines 30 – 32, 48 – 49).

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Levine and Ehrhart as applied to claim 1 above, and further in view of Saward.

As to claim 6, see rejection of claim 1 and note that Levine also teaches wherein said control information includes broadcast channel information, broadcast date, broadcast start time and broadcast end time. Levine teaches that as the operator makes a programming selection, the information relating to the selection (control information), includes the channel, start and stop time. This reads on the broadcast channel, broadcast start time and broadcast end time.

Levine and Ehrhart fail to teach the control information includes a broadcast date.

In an analogous art, Saward teaches control information (Figure 4) of a VCR includes a date of the program or a code for specific days of the week to be recorded (Column 3, lines 37 – 38).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify control information of Levine, using the broadcast date control information of Saward, for the purpose of convenience for the user so that the user can use one preset recording to record programs on different days (i.e. weekly).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin E. Shepard whose telephone number is (571) 272-5967. The examiner can normally be reached on 7:30-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chris Kelley/
Supervisory Patent Examiner, Art
Unit 2424

JS